

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DELAWARE MARKETING PARTNERS,  
LLC, a Delaware limited liability company,

Plaintiff

CA No.: 04-263

v.

JUDGE McLAUGHLIN AND  
MAGISTRATE JUDGE  
SUSAN PARADISE BAXTER

CREDITRON FINANCIAL SERVICES,  
INC, a Pennsylvania corporation, and,  
TELATRON MARKETING GROUP,  
INC., a Pennsylvania corporation,

TRIAL BY JURY DEMANDED

**Electronically Filed**

Defendants

**PROPOSED POINTS FOR CHARGE**

AND NOW, comes Delaware Marketing Partners, LLC, by and through its attorneys,  
Dickie, McCamey & Chilcote, P.C., and submits the following points for charge:

**POINTS FOR BINDING INSTRUCTION**

1. A breach of contract occurs when a party to the contract fails to perform any contractual duty of immediate performance or violates an obligation, engagement, or duty and that breach is material. A breach does not have to be defined in a contract.

Not every nonperformance, however, is to be considered a breach of contract. If you find that the nonperformance was immaterial, and thus the contract was substantially performed, you must also find that a breach of the contract has not occurred.

GRANTED \_\_\_\_\_ MODIFIED \_\_\_\_\_ DENIED \_\_\_\_\_

2. Where one party to a contract breaches that contract, the other party may recover for those injuries that have been proved to you with reasonable certainty. Any compensation awarded for injury is termed "damages." Generally, the measure of damages is the sum that will compensate the plaintiff for the loss sustained. If you find that the defendant breached the

contract, you must then decide, based on the evidence the plaintiff has presented, what amount of money will compensate the plaintiff for those injuries that were a direct and foreseeable result of the breach, and that the parties could have reasonably foreseen with certainty at the time they made the contract.

GRANTED \_\_\_\_\_ MODIFIED \_\_\_\_\_ DENIED \_\_\_\_\_

3. If you find that the defendant breached the contract, then you must decide, based on the evidence the plaintiff has presented, the amount of money damages that will compensate the plaintiff for [his] [her] loss as a result of the breach. Your aim in calculating this amount should be to put the plaintiff, as nearly as possible, in the same position [he] [she] would have occupied had the contract been performed. In determining this amount, you should remember that the plaintiff is entitled to be reimbursed for the money [he] [she] actually paid out, in addition to all reasonable and proper expenses incurred as a result of the plaintiff's reliance on the contract.

GRANTED \_\_\_\_\_ MODIFIED \_\_\_\_\_ DENIED \_\_\_\_\_

Respectfully submitted,  
DICKIE, McCAMEY & CHILCOTE, P.C.

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